

State of South Dakota

NINETIETH SESSION LEGISLATIVE ASSEMBLY, 2015

400W0192

SENATE BILL NO. 31

Introduced by: The Committee on Commerce and Energy at the request of the Department
of Labor and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding coordination of
2 benefits between health plans.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-18A-58 be amended to read as follows:

5 58-18A-58. For the purposes of this chapter, the term, plan, includes:

6 (1) Group and nongroup insurance contracts and subscriber contracts;

7 (2) Uninsured arrangements of group or group-type coverage;

8 (3) Group and nongroup coverage through closed panel plans;

9 (4) Group-type contracts;

10 (5) The medical care components of long-term care contracts, such as skilled nursing
11 care;

12 (6) The medical benefits coverage in automobile no fault and traditional automobile fault
13 type contracts; ~~and~~

14 (7) Medicare or other governmental benefits, as permitted by law, except for the medical
15 assistance program. That part of the definition of plan may be limited to the hospital,



1 medical, and surgical benefits of the governmental program; and

2 (8) Group and nongroup insurance contracts and subscriber contracts that pay or
3 reimburse for the cost of dental care.

4 Section 2. That § 58-18A-70 be amended to read as follows:

5 58-18A-70. Unless there is a court decree stating otherwise, plans covering a dependent
6 child shall determine the order of benefits as follows:

7 (1) For a dependent child whose parents are married or are living together, whether or
8 not they have ever been married:

9 (a) The plan of the parent whose birthday falls earlier in the calendar year is the
10 primary plan; or

11 (b) If both parents have the same birthday, the plan that has covered the parent
12 longest is the primary plan;

13 (2) For a dependent child whose parents are divorced or separated or are not living
14 together, whether or not they have ever been married:

15 (a) If a court decree states that one of the parents is responsible for the dependent
16 child's health care expenses or health care coverage and the plan of that parent
17 has actual knowledge of those terms, that plan is primary. If the parent with
18 responsibility has no health care coverage for the dependent child's health care
19 expenses, but that parent's spouse does, that parent's spouse's plan is the
20 primary plan. This item does not apply with respect to any plan year during
21 which benefits are paid or provided before the entity has actual knowledge of
22 the court decree provision;

23 (b) If a court decree states that both parents are responsible for the dependent
24 child's health care expenses or health care coverage, the provisions of

1 subdivision 1 of this section shall determine the order of benefits;

2 (c) If a court decree states that the parents have joint custody without specifying
3 that one parent has responsibility for the health care expenses or health care
4 coverage of the dependent child, the provisions of subdivision (1) of this
5 section shall determine the order of benefits; or

6 (d) If there is no court decree allocating responsibility for the child's health care
7 expenses or health care coverage, the order of benefits for the child are as
8 follows:

9 (i) The plan covering the custodial parent;

10 (ii) The plan covering the custodial parent's spouse;

11 (iii) The plan covering the noncustodial parent; and then

12 (iv) The plan covering the noncustodial parent's spouse;

13 (3) For a dependent child covered under more than one plan of individuals who are not
14 the parents of the child, the order of benefits shall be determined, as applicable, ~~under~~
15 pursuant to subdivision (1) or (2) of this section as if those individuals were parents
16 of the child; and

17 (4) For a dependent child who has coverage under either or both parents' plans and also
18 has his or her own coverage as a dependent under a spouse's plan, the provisions of
19 § 58-18A-73 apply. If the dependent child's coverage under the spouse's plan began
20 on the same date as the dependent child's coverage under either or both parents' plans,
21 the order of benefits shall be determined, as applicable, pursuant to the provisions of
22 subdivision (1) of this section to the dependent child's parent or parents and the
23 dependent's spouse.